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असाधारण

EXTRAORDINARY

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PART II — Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on 23rd December, 2005:—

I

BILL No. LXXX OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 2005.

Short title.

2. After article 364 of the Constitution, the following article shall be inserted, namely:—

Insertion of
new article
364A

“364A. (1) It shall be the duty of the Union,—

Promotion of
Sports.

(i) promote and encourage sports activities in the country;

(ii) make available all necessary facilities and to set up necessary infrastructure for promotion of sports;

(iii) provide sufficient funds to the State Governments for grooming up players in all fields on international standards so that they can face global competition with admirable performance.

(2) Parliament may by law provide for regulation of sports associations and federations with a view to ensuring that they function and involve in activities for which they have been set up.

Amendment of
seventh
schedule.

3. In the Seventh Schedule to the Constitution:—

(i) in List I—Union List, after entry 68, the following entry shall be inserted, namely:—

“68A. Sports and games”; and

(ii) in List II—State List, in entry 33, the word “sports” shall be omitted.

STATEMENT OF OBJECTS AND REASONS

Even after fifty-eight years of independence we have not made our presence felt in sports activities at international level. Ours is the second most populous country and is endowed with various climatic conditions suitable for developing different kind of sports and games activities. The performance of our sportsmen in international sports meets has been dismal. No efforts seems to have been made to raise the standard of sports in the country.

One reason for sports not being given sufficient focus is that the subject is in the State List. As a result, it has not received due attention of the Union Government. It is, therefore, necessary to amend the Constitution with a view to giving due importance to sports at national level. The Bill will enable formulation of a national sports policy and encourage all spheres of sports activities in the country. The Bill seeks to provide for funds and facilities to institutions/associations involved in sports activities. It also seeks to amend the Seventh Schedule the constitution with a view to transferring the entry 'sports' from State list to Union list.

Hence this Bill.

C. RAMACHANDRAIAH.

FINANCIAL MEMORANDUM

Clause 2 of the Bill provide for promotion and encouragement of sports activities in the country. It also provides for setting up infrastructures required in sports activities. The Bill, if enacted, will involve expenditure from the Consolidated Fund of India. It is estimated that an annual recurring expenditure of about rupees one hundred crore is likely to be incurred. A non-recurring expenditure of about rupees five hundred crore is also likely to be required.

II

BILL NO. LXXXIII OF 2005

A Bill further to amend the Securities and Exchange Board of India Act, 1992.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title.

1. This Act may be called the Securities and Exchange Board of India (Amendment) Act, 2005.

Substitution
of new
section for
section 4 of
Act 15 of
1992.

2. For section 4 of the Securities and Exchange Board of India Act, 1992, the following section shall be substituted namely:—

Management
of the Board.

"4. (1) The Board shall consist of the following ten members, namely:—

(a) a Chairman;

(b) two members one each from amongst the officials of the Ministries of the Central Government dealing with Company Affairs and Finance;

(c) one member from amongst the officials of the Reserve Bank; and

(d) six members, two each representing investors, industry and recognised Stock Exchange.

to be appointed by the Central Government.

(2) The general superintendence, direction and management of the affairs of the Board shall vest in a Board of members, which may exercise all powers and do all acts and things which may be exercised or done by the Board.

(3) Save as otherwise determined by regulations, the Chairman shall also have powers of general superintendence and direction of the affairs of the Board and may also exercise all powers and do all acts and things which may be exercised or done by that Board.

(4) The Chairman and members referred to in clauses (a) and (d) of sub-section (1) shall be appointed by the Central Government and the members referred to in clauses (b) and (c) of that sub-section shall be nominated by the Central Government and the Reserve Bank respectively.

(5) The Chairman and the other members referred to in clauses (a) and (d) of sub-section (1) shall be persons of ability, integrity and standing who have shown capacity in dealing with problems relating to securities market or have special knowledge or experience of law, finance, economics, accountancy, administration or in any other discipline which, in the opinion of the Central Government, shall be useful to the Board."

STATEMENT OF OBJECTS AND REASONS

The Securities and Exchange Board of India was set up in 1992 to regulate the activities of capital market. One of the main objects of the Board is to protect the interests of small investors. At present, there is no representative of the small investors in the Board. It is felt that for more efficient functions of the Board it is necessary to strengthen the composition of the Board. It is accordingly proposed to include two representatives each from a recognized stock exchange, small investors and the industry as the members of the Board. It is also proposed to carry out some consequential amendments in Section 4 of the Act.

The Bill seeks to achieve the above objective.

C. RAMACHANDRAIAH.

FINANCIAL MEMORANDUM

Clause 2 of the Bill makes provisions for appointment of one more member. This will involve expenditure of about rupees fifteen lakhs per annum from Consolidated Fund of India as a recurring expenditure.

It will also involve a non-recurring expenditure of rupees ten lakhs.

III

BILL NO. C OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force with immediate effect.

2. In the Eighth Schedule to the Constitution, existing entries 17 to 22 shall be re-numbered as entries 18 to 23 respectively and before entry 18 as so re-numbered, the following entry shall be inserted, namely:—

Amendment of
Eighth
Schedule.

"17. Rajasthani including Bagri, Haroti, Dhundadi, Mewari, Mewati, Marwari, Shekhawati, etc. languages which are parts thereof."

STATEMENT OF OBJECTS AND REASONS

Rajasthani is one of the ancient and rich languages, widely spoken in Rajasthan, Madhya Pradesh, Haryana and other parts of the country and abroad by more than fifty million people. This language has sub-languages such as *Brijbhasha*, *Haroti*, *Bagri*, *Dhundadi*, *Mewari*, *Mewati*, *Marwari*, *Malwi*, *Shekhawati*, etc. which are spoken in different parts of Rajasthan but these are parts of the Rajasthani language. This language has its own history, literature and has produced eminent scholars. Many popular films have been produced in Rajasthani language. This language is taught in many schools, colleges and universities, but unfortunately this has not got due recognition that it deserves. Since this language has not been included in the Eighth Schedule to the Constitution, the students of this language cannot opt it for UPSC and other examinations. Moreover, the State is also not serious in promoting this language further. It is the wish of crores of Rajasthani speaking people that this rich language must be included in the Eighth Schedule to the Constitution.

Hence this Bill.

PRABHA THAKUR

IV

BILL NO. CIII OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Short title
and com-
mencement.

(2) It shall come into force with immediate effect.

2. After article 21A of the Constitution the following article shall be inserted, namely:—

Insertion of
new article
21B.

21B (1) All citizens shall have the right to social security which *inter alia* shall include the right to,—

Right to social
security.

(a) gainful employment in public or private sector and provision of unemployment allowance till the citizen gets gainful employment;

(b) shelter or dwelling unit of appropriate type with amenities for living therein;

(c) old age allowance and other concessions and amenities necessary for hasslefree life for senior citizens who have attained the age of sixty years and do not have other source of income;

(d) disability allowance and other requisite assistance to physically challenged citizens who have no other source of income;

(e) compulsory healthcare including health insurance at state expenses for all senior and physically challenged citizens;

(f) such other assistance and amenities as the State may deem necessary for the welfare of citizens and more so for the senior and physically challenged citizens.

(2) Notwithstanding anything in article 359, the provisions of this article shall not be suspended.

(3) Parliament may by law prescribe the manner in which social security shall be secured by the State to the citizens.

3. Article 41 of the Constitution shall be omitted.

Omission of
Article 41.

STATEMENT OF OBJECTS AND REASONS

Social security rights envisaged under article 41 of the Constitution have not yet been secured to the citizens even after more than five decades of country's independence. Unemployment has become the biggest problem of the nation after population explosion. There is no guarantee of job. The youth today has become desperate and frustrated. Employment opportunities are consistently shrinking and the hopes of the youth too are sinking. There is no provision of unemployment allowance for the youth who are unemployed. So is the case of homelessness which is increasing day by day. People are forced to live in *Jhuggi Jhopri* clusters and slums in inhuman conditions, without civic amenities, full of stinking garbage and diseases. Senior citizens are not even secure. They become unwanted even in their own families and without source of income many of them have to live on charity and many of them turn beggars. Few of them get meagre old age pension which is not sufficient even for two square meals. They should get old age allowance on which they can subsist and lead a good life. The position of physically challenged persons is more awesome. Their representation in service sector is negligible. They too are in need of subsistence allowance. The health care has gone out of the reach of common man. A poor man can not afford medical care these days. Hence compulsory health insurance has become necessary for the citizens. Our State being a welfare State has to provide these as social security measures to all of its citizens.

Hence this Bill.

PRABHA THAKUR

FINANCIAL MEMORANDUM

Clause 2 of the Bill provides for right to social security which includes right to employment, unemployment allowance, housing, old age allowance, disability allowance and compulsory health insurance for the citizens. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Although it is not possible to assess the total financial implications at this stage, it is estimated that a sum of rupees ten thousand crore may be involved as recurring expenditure per annum.

A non recurring expenditure of about rupees five thousand crore may also involve.

V

BILL NO. CII OF 2005

A Bill to provide for the welfare measures to be undertaken by the Central and State Governments for the children belonging to families living below poverty line through special educational facilities, including technical and vocational education, hostel facilities and for one time security and development bond in favour of girl child of such families to mature at the time of her marriage or settling in life so as to ensure proper development of such children in the society and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Children of Families Living Below Poverty Line (Welfare) Act, 2005.

Short title,
extent and
commence-
ment.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "families living below poverty line" means those families which have been enumerated as living below poverty line either by Planning Commission at the Centre or by the State Government or such families whose monthly income from all sources is not more than one thousand and five hundred rupees;

(c) "parent" includes mother, father, guardian and every person who has the actual custody of the child;

(d) "prescribed" means prescribed by rules made under this Act.

Appropriate Government to conduct survey about children of families living below poverty line.

3. It shall be the duty of the appropriate Government to conduct survey from time to time in its territorial jurisdiction to find out the number of children belonging to families living below poverty line and prepare a list who are to be covered under this Act in such manner as may be prescribed and shall cause the list to be revised at such intervals as it may deem necessary.

One time Security and Development Bond for the girl child of family living below poverty line.

4. (1) Notwithstanding anything contained in any other law for the time being in force the appropriate Government shall give a one time Security and Development Bond of the value of not less than ten thousand rupees to every girl child of a family living below poverty line within its jurisdiction at her second birthday in such manner as may be prescribed.

(2) The Bond referred to in sub-section (1) shall mature when the girl child attains the age of majority and her marriage is fixed or she decides to join her vocational career, as the case may be, and the payment shall be made to such girl child in such manner as may be prescribed.

Special educational and other facilities to be provided by appropriate Government.

5. The appropriate Government shall provide to every child belonging to the family living below poverty line the following educational and other facilities, namely:—

(a) free and compulsory education from school level to Post Graduate level including medical and technical education which the child wishes to pursue;

(b) study materials like books, notebooks, stationery, uniforms, shoes, socks, transportation etc. and such other requirements for the proper education of the child;

(c) hostel, board and lodging facilities, wherever required at Government expenses;

(d) monthly scholarships in deserving cases at such rates as may be prescribed while pursuing studies;

(e) nutritious meals and medical care free of cost;

(f) free vocational training;

(g) proper and gainful employment after completion of education or training as the case may be.

Parents to send the child to school, etc.

6. It shall be the duty of the head of the family or the parent of a child of family living below poverty line, as the case may be, to cause the child to attend an approved school or institution for pursuing his studies.

Prohibition of employment.

7. No person shall employ a child belonging to a family living below poverty line in a manner which shall prevent the child from attending a school or institution for pursuing studies.

Appropriate Government to establish educational institutions and hostels.

8. The appropriate Government shall establish such number of schools, institutes and hostels as it may deem necessary for carrying out the purposes of this Act.

9. The Central Government shall, after due appropriation made by Parliament by law in this behalf, make available to the States and Union Territories the requisite funds for the purposes of this Act.

Central Government to provide funds.

10. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force regulating any of the matters dealt with in this Act.

Savings.

11. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

STATEMENT OF OBJECTS AND REASONS

There are millions of families living below poverty line in our country. The children born in such families grow in abject poverty. They have the destiny to live without basic necessities of life, almost hand to mouth, without even clothes on their bodies. To face the stalking hunger they become rag pickers, beggars, petty thieves, pick pockets, snatchers, etc. They are exploited at all levels in the society and looked down upon. The condition of a girl child born in such families is more awesome and pathetic. She is exploited at every stage of her life even physically and in most of the cases end in a brothel. When there is no guarantee of even two square meals, good education, vocation and good life are day dreams for such hapless children of our society.

Since our State is a welfare State it has to come forward for the welfare of such unfortunate and less privileged children who are born in the families living below poverty line as they are also the future citizens of the country. In fact it is the right of these poor children to get good education, vocation and facilities of good life and it is the duty of the State to provide these facilities to these children.

This bill seeks to achieve the above objects.

PRABHA THAKUR

FINANCIAL MEMORANDUM

Clause 4 of the Bill provides that appropriate Government shall give a one time Security and Development Bond to girl child of families living below poverty line. Clause 5 provides for special educational and other facilities to the children. Clause 8 provides that appropriate government shall establish schools and hostels for the purpose of this Act. Clause 9 provides that Central Government shall provide requisite funds to States. The Bill if enacted will involve expenditure from the Consolidated Fund of India. It is estimated that a sum of rupees one thousand crore may involve as recurring expenditure per annum.

A non-recurring expenditure to the tune of rupees five hundred crore may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to matters of details only. The delegation of legislative power is of normal character.

VI

BILL NO. CVII OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

(2) It shall come into force at once.

2. After article 40 of the Constitution, the following article shall be inserted, namely:—

“40A. The state shall take necessary legal and other administrative steps to develop the scientific temper, humanism and the spirit of inquiry and reform amongst the citizens”.

Short title
and com-
mencement.

Insertion of
new article
40A.

Development
of scientific
temper.

STATEMENT OF OBJECTS AND REASONS

Superstitious beliefs are prevailing in the country for the last several centuries. These beliefs have taken strong roots in the society and have done irreparable harm to it, particularly to the weaker sections. It was expected that as time passes, scientific temper in the minds of the people will increase and, people may refrain from resorting to unpleasant and crude methods to achieve their social and other objectives. Literacy is increasing among the people but, disbelief in superstitious beliefs have not diminished in the same proportion.

Literate people too are found to be indulging in superstitious beliefs in quite an astonishing proportion. Fundamental duties enshrined in the Constitution, although, lay stress on this aspect, the need of the hour is to incorporate the same as a Directive Principle in the Constitution.

Hence this Bill.

SHANTARAM NAIK

FINANCIAL MEMORANDUM

Clause 2 of the Bill puts an obligation on the state to take necessary legal and other administrative steps to develop the scientific temper, humanism and the spirit of inquiry and reform in the minds of the citizens.

This will involve a recurring expenditure of about rupees 2 crore from the Consolidated Fund of India.

VII

BILL NO. CIX OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Short title and
commencement.

(2) It shall come into force at once.

2. In article 324 of the Constitution, after clause (1) the following *Explanation* shall be inserted, namely:—

Amendment of
article 324.

“Explanation:—All directions or orders issued by the Commission shall solely be for the enforcement or implementation of any law enacted by Parliament or State Legislature, and no such direction or order shall contain anything which is either contrary to or not in accordance with any law enacted by Parliament or State Legislature as the case may be.”

STATEMENT OF OBJECTS AND REASONS

In recent years, the Election Commission of India has issued several orders, directions and circulars purportedly under article 324 of the Constitution, sometimes quoting the article and other times without quoting any source of law.

It is amply clear under the said article that power to be exercised is of the nature of "superintendence, direction and control" for the purpose of the conduct of all elections to Parliament and to the Legislature of every state and of election to the office of President and Vice-President held under the Constitution.

Many of the directions, orders and circulars issued by the Commission has the effect of creating new set of "laws" which do not conform to the two existing legislations dealing with elections, namely, the Representation of the People Act, 1950, which deals with the preparation of electoral rolls, etc. and, the Representation of the People Act, 1951 which deals with all other aspects regarding conduct of elections.

Publications of the Commission incorporating such directions, orders and circulars have become voluminous giving an impression that Parliament's powers of enacting laws have become redundant. Proposed amendment seeks to clear the misgivings regarding scope of article 324 of the Constitution.

Hence this Bill.

SHANTARAM NAIK

VIII

BILL NO. CX OF 2005

A Bill further to amend the Constitution of India.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 2005.

Short title
and
commencement.

(2) It shall come into force at once.

2. In the Tenth Schedule to the Constitution, for para 6, the following para shall be substituted, namely:—

Amendment
of Tenth
Schedule.

“6. If any question arises as to whether a member of a House has become subject to disqualification under this schedule, the question shall be referred to the Election Commission.”

STATEMENT OF OBJECTS AND REASONS

Tenth Schedule to the Constitution has succeeded in bringing considerable purity in our political system. The schedule has recently undergone a change. However, there is a popular demand that the authority to decide whether a member has become subject to disqualification under the Tenth Schedule to the Constitution, should rest in the Election Commission. This demand is gaining force in the States on account of controversies created following decisions of the Presiding Officers of some States.

The Bill seeks to achieve the above objective.

SHANTARAM NAIK

IX

BILL NO. CIV OF 2005

A Bill to provide for issue of multi-purpose smart cards to every citizen in the country and matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizens Smart Card Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force at once.

2. In this Act unless the context otherwise requires, —

(a) "citizen" means a citizen of India as defined under the Citizenship Act, 1955 who is above eighteen years of age;

Short title,
extent and
commencement.

Definitions.

(b) "competent authorities" means authorities declared by the Central Government competent to issue and change particulars of a smart card under this Act;

(c) "prescribed" means prescribed by rules made under this Act;

(d) "smart card" means a plastic or fibre glass card containing such details on a microchip or magnetic strip as may be prescribed under this Act for the purpose of multi usage;

Issuance of smart cards.

3. (1) The Central Government shall, within a period of six months from the date of commencement of this Act, issue a smart card to every citizen living in a city having a total population of thirty lakhs and above as per the 2001 census:

Provided that by 2008, the Central Government shall issue smart card to each and every citizen in the country;

(2) The smart card issued under sub-section (1) shall contain the following information, namely:—

(a) Full name in capital letters with photograph of the citizen;

(b) Date of birth;

(c) Permanent address;

(d) Temporary address, if any;

(e) Occupation;

(f) Educational qualification;

(g) Blood group;

(h) PAN Number, if any;

(i) Driving licence details, if any;

(j) Bank accounts details, if any; and

(k) Passport details, if any.

(3) The smart card shall be prepared displaying only a few particulars and encoding the rest mentioned in sub-section (2) in such manner as may be prescribed.

(4) The Central Government shall by notification in the Official Gazette declare the authorities competent to issue and change the particulars in a smart card.

Duty of citizen to inform the details to competent authorities.

4. It shall be the duty of every citizen to bring to the notice of competent authorities set up for the purpose every detail required for the purposes of the smart card.

Recording of change in particulars on smart card.

5. (1) In case of any change in the particulars of the smart card, every citizen shall, in writing, bring it to the notice of the competent authority within a period of sixty days.

(2) On receipt of an application under sub-section (1), the competent authority shall enter the new particulars in the smart card in such manner as may be prescribed:

Provided that the Central Government shall ensure that the changes in the smart card are made online by the year 2007.

Smart card to be proof for determine details of citizens.

6. Notwithstanding anything contained in any other law for the time being in force, the smart card issued under sub-section (1) of section 3 shall be the conclusive proof for the purposes of determining the age, residence and other details of the citizen and shall be used for such other purposes as may be prescribed.

7. If a citizen is leaving the country for a period exceeding one year or intends to settle abroad permanently, he shall surrender the smart card with the competent authorities failing which he shall not be allowed to leave the country.

Surrender of smart card.

8. Notwithstanding anything contained in any other law for the time being in force, a citizen who does not hold a smart card shall not be entitled to the benefits of any of the schemes of the Central Government, the State Governments or their undertakings.

Denial of benefits of Government schemes to citizen not having smart card.

9. (1) The Central Government may, by notification in the Official Gazette, make rules for the purpose of carrying into effect the provisions of this Act.

Power to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following matter, namely:—

(a) the size and shape of the smart card, the photograph to be affixed to the same and the letter to be used therein;

(b) the competent authorities empowered to issue the smart card and make changes in it;

(c) the manner and purposes in which smart cards can be used;

(d) the manner in which publicity shall be given to the provisions of the Act so as to enable the people to get their smart cards prepared;

STATEMENT OF OBJECTS AND REASONS

Issue of smart card to each and every citizen in the country is one of the most essential requirements of the day keeping in view the security threat to the nation. Our nation is prone to infiltration from all sides, and a lot of infiltrations do take place from neighbouring countries. Therefore, the citizens do need some sort of document to prove their identity whenever confronted during security checks.

With the commitment of the nation towards e-governance, issuing of smart card to a citizen would be a step in that direction. Many countries have adopted this method of providing identity to their citizens. The smart card will be containing all the necessary details about a person. It can be used in banks, smart card readers, etc. for financial and other transactions in an efficient manner. In the long run, it will save a lot of time and energy.

Hence this Bill

KALRAJ MISHRA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for issuing of smart card to every citizen of the country and for setting up of authorities for issue of smart cards for issuing and changing its particular. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees twenty crore per annum on account of appointment of staff who will issue the identity cards.

A non-recurring expenditure of about rupees five hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 9 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules relate to matters of details only. The delegation of legislative power is, therefore, of a normal character.

X

BILL NO. CV OF 2005

ABill to regulate the sale of the traditional herbal medicines which are being marketed without any licence and control under the cover of being manufactured by formulation provided in the ancient texts and to provide for compulsory listing and verification of ingredients of traditional herbal medicines and for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Traditional Herbal Medicine (Regulation of sale and compulsory evidence based trial) Act, 2005.

Short title,
extent and
Commencement.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "Authority" means the Traditional Herbal Medicine Quality Control and Verification Authority established under section 6;

(b) "evidence-based trial" means testing of a traditional herbal medicine for its results of curing any disease wherein its toxicity and adverse effects have also gone through;

(c) "over the counter (OTC)" means availability of a traditional herbal medicine in any shop without any prescription by the authorised person;

(d) "prescribed" means prescribed by rules made under this Act;

(e) "traditional herbal medicine" means any formulation being used either in homoeopathy or ayurvedic system of medicine which has been mentioned in any of the ancient texts notified by the Central Government under the Drugs and Cosmetics Act, 1940.

Act No. of
1940.

3. On and from the appointed day, as the Central Government may by notification in the Official Gazette appoint in this behalf, no traditional herbal medicine shall be sold or made available over the counter.

4. Every retailer or seller of traditional herbal medicines shall have to obtain a licence to sell traditional herbal medicines from the Authority in such manner as may be prescribed.

5. (1) Every manufacturer of traditional herbal medicine shall list the ingredients of each medicine on the packing of the medicine along with their accurate quantity.

(2) Every manufacturer of traditional herbal medicine shall clearly and boldly indicate on the packaging of the medicine any side effects and warning of contra-indications in such manner as may be prescribed.

6. (1) The Central Government shall, by notification in the Official Gazette, establish an authority to be known as Traditional Herbal Medicine Quality Control and Verification Authority for carrying out functions assigned under this Act.

(2) The Authority shall have its headquarters at Lucknow in the State of Uttar Pradesh.

(3) The Authority shall have a Chairman who shall be the retired Judge of High Court and five other members to be appointed by the Central Government.

(4) The terms and conditions of the Chairman and the members of the Authority shall be such, as may be prescribed.

(5) The Central Government shall provide such number of officers and staff as may be required for efficient functioning of the Authority.

(6) The procedure for appointment of the members, their powers and functions and the procedure of filling up of vacancies shall be such, as may be prescribed.

(7) The Authority shall have subordinate offices in the capitals of each of the States and Union Territories of the country.

(8) The Authority shall open as many laboratories for the purpose as may be required for meeting the objectives of this Act:

Provided that the number of laboratories shall not be more than three in one State or Union Territory, as the case may be.

7. The functions of the Authority shall be,—

(i) to ensure quality control of the traditional herbal medicines;

(ii) to arrange to verify the ingredient of any medicine;

(iii) to act on the complaint received in respect of any medicine;

(iv) to recommend cancellation of licence for selling of any traditional herbal medicine;

Ban on sale of traditional herbal medicines over the counter.

Licence to sell traditional herbal medicine for retailer.

Manufacture to list the ingredient on packing of each traditional herbal medicine.

Establishment of Traditional Herbal Medicine Quality Control and Verification Authority.

Functions of Authority.

- (v) to make the people aware about its findings of various spurious medicines;
- (vi) to conduct survey and inspection and random sample checking of every manufacturer at least once in a year through its laboratories.
- (vii) any other function that may be assigned.

8. The Central Government shall by due appropriation made by Parliament by law in this behalf from time to time, provide adequate funds for the purpose of this Act. Central Government to provide funds.

9. Whoever violates the provisions of this Act shall be liable for imprisonment for a term which may extend to three years and shall also be liable to fine which may extend to ten lakh rupees. Penalty.

10. (1) Where a person committing a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly: Offence by a company.

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

(2) Notwithstanding anything contained in sub-section (1), where a contravention of any of the provisions of this Act or of any rule, direction or order made thereunder has been committed by a company and it is proved that the contravention has taken place with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly.

Explanation:— For the purpose of this section:—

(i) "company" means anybody corporate and includes a firm or other association of individuals; and

(ii) "director", in relation to a firm, means a partner in the firm.

Act No. 2
of 1974.

11. Notwithstanding anything contained in the Code of Criminal Procedure, 1973 the offences under this Act shall be cognizable and non-bailable. Offences to be cognizable.

12. If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty: Power to Remove Difficulties.

Provided that no such orders shall be made after the expiry of the period of three years from the date of commencement of this Act.

13. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of the Act shall be in addition to and not derogation of any other law for the time in force. Overriding effect of the Act.

14. The Central Government may by notification in the Official Gazette make rules for carrying out the purposes of this Act. Power to make rules.

Overriding effect of the Act.

STATEMENT OF OBJECTS AND REASONS

The market in the urban and semi-urban area in the country is full of traditional herbal preparations now a days. These medicines claim to cure various ailments from general fatigue to diabetes to cancer. According to a report, a casual and random checking and testing of these medicines by the Department of Pharmacology of one of the premium referral hospitals in Delhi revealed that many of them were contaminated containing steroids which in the long run could lead to suppression of immune system, growth retardation in children, diabetes and cataracts. Under the pretext of ancient texts and without any legal requirement of any licence to sell these medicines, these unchecked traditional medicines are causing serious ailments to their innocent users. The absence of quality control and mechanism to verify the ingredients and the efficacy of many of these medicines have lead to the proliferation of the practice of dispensing these medicines.

There is no doubt about the prescription and formulations available in the ancient text, but at the same time, these medicines must go through the test for their toxicity and evaluation studies. To say that herbal drugs do not have any side effects does not hold good as adverse effects are dependent on the time for which a particular drug is taken and the prescribed dosage. This argument does not take into account the basic principle that any drug having a good effect will have an adverse effect too. Therefore, all herbal drugs are not safe in all circumstances. Some medicines are known to contain heavy metal including mercury and gold and some homoeopathic and ayurvedic medicines contain arsenic. These have to be given in minute dosages under constant supervision, which does not happen. The side effects of any medicine have to be listed on the cover. But manufactures are not even listing the ingredients of the medicine. Medicine containing steroids and metals including mercury and arsenic are available over the counter with no warning or contra-indications. Market is flooded with herbal weight loss medicines, which have been found to be very harmful to kidneys and at times develop urinary track cancer.

The rationale for not demanding evidence, based trial or efficacy test for traditional herbal drugs because they have been used for centuries and so they do not need fresh test, does not hold good as there are many fly by night operators who have taken advantage of this system. Although there are traditional herbal medicines from reputed companies, but many a time these are concoctions prepared by quacks who after duping their patients run away with money.

Internationally, move towards regulation of traditional herbal medicine has already been initiated when certain medicines were found to be damaging human organs in some countries.

Therefore, it is high time that a regulatory mechanism for sale and evidence based trial may be adopted for traditional herbal medicines so as to obviate the unscrupulous elements which are taking advantage of the system.

Hence this Bill.

KALRAJ MISHRA

FINANCIAL MEMORANDUM

Clause 6 of the Bill provides for establishment of an authority to be known as Traditional Herbal Medicine Quality Control and Verification Authority for carrying out functions assigned under this Bill. Clause 8 provides that the Central Government shall by due appropriation made in this behalf from time to time, provide adequate funds for the purposes of this Act. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees fifty crore per annum.

A non-recurring expenditure of about rupees five crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 14 of the Bill empowers the Government to make rules for carrying out the purposes of the Bill and the rules relate to matters of detail only. The delegation of legislative power is, therefore, of a normal character.

XI**BILL NO. CXVII OF 2005**

A Bill to provide for establishment of a National Commission for Hygienic Food, Packed Drinks and Water for the purpose of making available safe and hygienic food, packed drinks and water to the citizens with in the prescribed level of purity and check the rampant adulteration in these articles by unscrupulous elements and for matters connected therewith and incidental thereto.

Be it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the National Commission for Hygienic Food, Packed Drinks and Water Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) 'Commission' means National Commission for Hygienic Food, Packed Drinks and Water established under section 3;

(b) 'food' means any edible item for human consumption being sold in the market and includes packed food;

(c) 'packed drinks' includes aerated water, juice, tea, coffee, *lassi*, milk available in packed form with or without preservatives;

(d) 'prescribed' means prescribed by rules made under this Act;

(e) 'water' means potable water available through taps and includes packaged drinking water in any form and ground water.

3. (1) The Central Government shall, by notification in the Official Gazette, establish a Commission to be called National Commission for Hygienic Food, Packed Drinks and Water for the purpose of providing safe and hygienic food, packed drinks and water in the country.

National
Commission
for Hygienic
Food, Packed
Drinks and
Water.

(2) The Commission shall consist of—

(a) a Chairman who shall be the retired Judge of the Supreme Court;

(b) such other members not exceeding six, as may be deemed necessary from amongst the persons having eminence in public life with wide knowledge and experience in law, science and technology, social service and administration.

(3) The headquarters of the Commission shall be at Nagpur and the Commission may with the approval of the Central Government establish offices and testing laboratories in other parts of the country.

(4) The Chairman and other members of the Commission shall be appointed by the President on the recommendation of a Committee consisting of the Prime Minister, Speaker of the House of the People, Leader of Opposition of both the Houses of Parliament.

(5) The terms and the conditions of service of the Chairman and the Members shall be such as may be prescribed.

(6) The Central Government shall provide the Commission with such officers and employees as may be necessary for the efficient performance of the functions of the Commission under this Act.

4. (1) the Commission shall perform the following functions:—

Functions of
the
Commission.

(a) to evolve a national food and water policy for the country and fix the standard for hygienic food, packed drinks and water;

(b) to investigate and examine all matters pertaining to food adulteration and water contamination with relation to safeguards provided for the purpose in laws;

(c) to present to the Central Government such report as it may deem necessary on the working of the safeguards referred to in clause (b);

(f) to review and make such recommendations for the effective implementation of the safeguards;

(g) to look into complaints received from *bona fide* persons and take them up with appropriate authorities;

(h) to educate the public about their rights about hygienic food, packed drinks and water;

(i) to give wide publicity to the various policies, standards, through print as well as the electronic media;

(f) to monitor the implementation of various policies, programmes and schemes for hygienic food, packed drinks and water; and

(k) any other function assigned to it by the Central Government.

Commission to have powers of a Criminal Court.

(2) The Commission shall, while inquiring into any matter under this section, have the same powers as are vested in a criminal court while trying a case under the Code of Criminal Procedure, 1973, in respect of the following matters, namely:—

2 of 1974.

(a) summoning and enforcing the attendance of persons and compel them to give oral or written evidence on oath and to produce the documents or things;

(b) requiring the discovery and inspection of documents;

(c) receiving evidence on affidavit;

(d) requisitioning any public record or copies thereof from any court or office;

(e) issuing summons for examination of witnesses or documents; and

(f) any other matter which may be prescribed;

Central Government to provide money.

5. The Central Government shall, after due appropriation made in this behalf, provide such sums of money as it may think fit for being utilised for the purposes of this Act.

Penalty.

6. Where the Commission at the time of deciding any complaint or appeal is of the opinion that any persons or company has been guilty of the act of adulteration in food, packed drinks and water, it shall impose a penalty which may extend to twenty-five lakh rupees or shall award a punishment which may extend to three years or both.

Action taken in good faith.

7. No suit, prosecution or other legal proceeding shall lie against any person or anything which is in good faith done or intended to be done under this Act or any rule made thereunder.

Bar of jurisdiction of court.

8. No court other than a High Court shall entertain any suit, application or other proceeding in respect of any order made under this Act and no such order shall be called in question otherwise than by way of an appeal under this Act.

Overriding effect of the Act.

9. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent contained in any other law for the time being in force.

Power to make rules.

10. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Food adulteration in our country has reached an alarming level. Numerous cases of adulteration and contamination are reported almost daily but no heed has ever been paid to the gravity of the problem. Right to safe and hygienic food, packed drinks and water is the basic right of each citizen in the country. But till date, this area of providing hygienic food, packed drinks and water to the citizens has been neglected. Despite the Prevention of Food Adulteration Act, adulteration in food and water is very common. Everything you eat or drink be it milk, flour, dal, oil, vegetables, sweet, fruit juices or water is adulterated. The impact of these adulterants on health is ranging from vomiting and abdominal pain to mental retardation, cardiac arrest and cancer. The worst sufferer of adulteration is milk, which is being adulterated sometimes with urea or chalk and even pesticide or detergents. In the recent past there has been a controversy on the packaged drinking water when traces of pesticides were found in one of the most popular brands. Once organized adulteration in mustard oil had lead to a deadly disease or dropsy in the capital and other parts of the country. People are falling ill after consuming adulterated food or contaminated water but the persons who are responsible for adulteration are not getting any punishment.

Therefore, to protect the interests of the consumer, there is an urgent need to set up a Commission that would look into the whole spectrum of providing safe and hygienic food, packed drinks and water to the citizens in the country.

Hence this Bill.

VIJAY J. DARDA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that there shall be a National Commission for Hygienic Food, Packed Drinks and Water in the country. Clause 5 provides that the Central Government shall provide funds for the purposes of this Act. The Bill, if enacted, would involve expenditure from the Consolidated Fund of India. It is estimated that a recurring expenditure of Rs. hundred crore would be involved from the Consolidated Fund of India.

A non-recurring expenditure of Rs. Ten crore will also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 10 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to details only, the delegation of legislative powers is of normal character.

XII**BILL NO. CXI OF 2005**

A Bill to provide for proper handling and disposal of millions of tonnes of electronic waste being generated by discarded electronic devices like television, personal computer, floppies, audio-video CD, batteries, cell phones, refrigerators, air conditioners, electronic toys, telephones, washing machines, electric switches, etc. by prescribing norms and fixing responsibilities and duties on manufacturers, recyclers and consumers with regard to disposal of electronic waste and for matters connected therewith or incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Electronic Waste (Handling and Disposal) Act, 2005.
- (2) It extends to the whole of India.
- (3) It shall come into force with immediate effect.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases the Central Government;

Short title,
extent and
commencement.

Definitions.

(b) "consumer" means a person using products capable of generating electronic waste;

(c) "disposal" means final disposal of electronic-waste in terms of the prescribed norm to prevent contamination of ground water, surface water, ambient air quality and harmful effect on human health;

(d) "electronic-waste" means waste generated from discarded television, personal computer, floppy, audio-video CD, battery, cell phone, refrigerator, air conditioner, electronic toys, telephone, washing machine, electronic switch and such similar products;

(e) "operator" means a person or establishment who owns or operates a facility for collection, transportation and disposal of electronic waste;

(f) "prescribed" means prescribed by rules made under this Act;

(g) "re-cycler" means the person who processes electronic-waste for transforming it into raw material for producing new product which may or may not be similar to original product;

(h) "storage" means the temporary containment of electronic waste in a manner so as to prevent its littering and hazardous effects on human being;

(i) "transportation" means carrying of electronic waste from one place to other place hygienically through specially designed transport vehicle so as to prevent littering and harmful effect on human being.

3. (1) The appropriate Government shall ensure that all the electronic wastes generated within its territorial jurisdiction is handled and disposed in accordance with compliance criteria and procedure in such manner as may be prescribed.

Appropriate Government to ensure disposal of electronic-waste.

(2) The appropriate Government shall provide infrastructure development for collection, storage, transportation and disposal of electronic waste.

(3) The appropriate Government may after due authorization, authorize any operator to collect, transport and dispose of the electronic waste in such manner as may be prescribed.

4. (1) The Central Government in consultation with Central Pollution Control Board may prescribe the compliance criteria and procedure for handling and disposal of electronic waste.

Compliance criteria and procedure for disposal of electronic waste.

(2) The Central Pollution Control Board shall monitor the implementation of the compliance criteria and procedure for handling and disposal of electronic waste.

5. It shall be the duty of every manufacturer:—

Duty of Manufacturer.

(i) to ensure that every product being released in the market which is capable of producing electronic waste shall contain;

(a) the procedure for its handling and disposal; and

(b) the information about the parts which can be recycled and which cannot be recycled.

(ii) to install collection centres for the hazardous electronic waste for proper disposal depending upon the quantum of the product sold in the market; and

(iii) to create public awareness through advertisements, publications and other electronic mediums with regard to hazardous substances in their product which may cause ill effect to human body.

6. It shall be the duty of the consumer to ensure that the Electronic-Waste is not disposed of in any other manner except in the manner prescribed for the purpose.

Duty of Consumer.

Registration and
responsibility of
re-cycler.

7. (1) Every re-cycler of the electronic product shall be registered with the appropriate Government in such manner as may be prescribed.

(2) It shall be the responsibility of every re-cycler to re-cycle only those parts of an electronic product which have been permitted by the manufacture to be recycled.

Penalty.

8. Whoever violates the provision of this Act and the rules made there under shall be liable for imprisonment which may extend to one year and shall also be liable for fine which may extend to five lakh rupee.

Offence by a
company.

9. Where a person committing a contravention of any of the provisions of this Act or of any rule, made there under is a company, every person who, at the time the contravention was committed, was in charge of, and was responsible to, the company for the conduct of business of the company as well as the company, shall be guilty of the contravention and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to punishment if he proves that the contravention took place without his knowledge or that he exercised all due diligence to prevent such contravention.

Explanation.— For the purpose of this section :—

(i) “company” means any body corporate and includes a firm or other association of individuals; and

(ii) “director”, in relation to a firm, means a partner in the firm.

Act to has
overriding
effect.

10. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force on the subject and save aforesaid the provisions of this Act shall be in addition to and not derogation of any other law for the time in force.

Power to make
rules.

11. The Central Government may by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

All kind of electronic goods have become the household articles today. Every home has not one but a number of electronic products. Once these electronic products become obsolete or discarded, they are either thrown in the garbage or given to *Kabariwala*. The *Kabariwala* sells these products to scrap dealers who dismantle these gadgets and keep what is useful and rest of it is rendered into garbage which then is thrown in the landfills. This, of course, is not the proper way of its disposal. In this way millions of tonnes of electronic waste is generated in various metropolitan cities in the country. A number of components in these electronic products are hazardous and should be disposed of in an environment friendly manner. Many of these products contain components that contain toxic substances like lead, cadmium, mercury, hexavalent chromium, barium, beryllium and carcinogenic agents like carbon black and heavy metals. These elements can cause serious problems to the health of the person handling it and can also damage the environment if they are not disposed of properly.

In various countries, there are laws for proper disposal of electronic waste products and the procedure for it is also displayed on the product. There it is also indicated on the product what can be recycled and what cannot be recycled. But, in our country disposal of electronic waste is nobody's responsibility. As of now, there is no law or guideline for the disposal of electronic waste and no account is being taken how much is being generated and how it is being disposed of. It is, therefore, high time that matter may be regulated before the situation becomes alarming.

Hence this Bill.

VIJAY J. DARDA

FINANCIAL MEMORANDUM

Clause 3(2) of the Bill provides that the appropriate Government shall provide for infrastructure for collection, storage, transportation and disposal of the electronic waste. In view of this it is estimated that a recurring expenditure of rupees fifty crores would be involved from the Consolidated Fund of India per annum.

Non-recurring expenditure of rupees two hundred crores would also be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill.

The rules will relate to matters of details only. The delegation of legislative power is of normal character.

XIII

BILL NO. CXVIII OF 2005

A Bill to provide for the protection measures so as to prevent the farmers from taking extreme step of committing suicide who are adversely affected by natural calamities like drought, flood, cyclones, hailstorm, extreme cold, etc. and in the process lose crops, livestock, house and food items by providing adequate compensation, work, food, drinking water, fodder, etc. and for making it mandatory for the Banks and financial institutions to provide easy loans to such affected farmers and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Prevention of Suicide by Farmers Affected by Natural Calamity and Other Provisions Act, 2004.

(2) It extends to the whole of India.

(3) It shall come into force at once.

Short title,
extent and
commencement.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State the Government of that State and in other cases the Central Government;

(b) "Commissioner" means a Commissioner appointed under section 5;

(c) "Fund" means the National Farmers Natural Calamity Assistance Fund established under section 3;

(d) "natural calamity" includes flood, drought, earthquake, cyclone, hailstorm, extreme cold and such other natural phenomenon as may be notified by the Central Government from time to time in the manner prescribed;

(e) "prescribed" means prescribed by rules made under this Act.

3. (1) The Central Government shall, as soon as may be but not later than six months from the commencement of this Act, establish a National Farmers Natural Calamity Assistance Fund for the purposes of this Act.

Establishment
of National
Farmers
Natural
Calamity
Assistance
Fund.

(2) The initial corpus of the fund established under sub-section (1) shall be two thousand crore rupees of which one thousand eight hundred crore rupees shall be provided by the Central Government, after due appropriation made by Parliament in this behalf and two hundred crore rupees shall be provided by State Governments in proportion to their agricultural population relevant for the purposes of this Act.

(3) After the initial stage of the establishment of the Fund, moneys shall be provided to the Fund by the Central and State Governments in such proportion and in such manner as may be prescribed.

(4) The fund shall also comprise moneys received from the general public, body corporate, financial institutions, domestic as well as foreign, as donations or gifts as the case may.

(5) The fund shall be utilised for the purposes of this Act in the manner hereinafter provided.

4. Every farmer who is affected by natural calamity by way of losing crops, livestock, movable or immovable property, shall be entitled to receive adequate compensation out of the Fund in accordance with the provisions of this Act.

Compensation
to farmers
affected by
natural
Calamity.

5. The appropriate Government shall, by notification in the Official Gazette, appoint one Commissioner for every district affected by natural Calamity and declared to be such district by the Central Government, who shall entertain the claims for payment of compensation from the affected farmers in such manner as may be prescribed.

Commissioner
to decide
Compensation
to affected
farmers.

6. Subject to the provisions of this Act, the amount of compensation payable to a farmer affected by natural calamity shall be such as may be specified by the Central Government from time to time, by notification in the Official Gazette:

Fixation of
Compensation.

Provided that while specifying the compensation the Central Government shall take into account the total loss suffered by the farmer due to the natural calamity.

7. (1) Every farmer claiming compensation under this Act shall apply to the Commissioner in the prescribed form giving such relevant information as may be prescribed.

Compensation
to be filed
before the
Commissioner.

(2) Every claim for compensation under this Act shall be finalised and the payment shall be made within thirty days of the filing of the claim.

Special package for children and aged during natural calamity.

8. The appropriate Government shall formulate special assistance package for the children, physically challenged and old citizens vulnerable to the fury or aftermath of natural calamity and implement it in such manner as may be prescribed.

Banks etc. to provide easy loans to affected farmers.

9. (1) Notwithstanding anything contained in any other law for the time being in force, it shall be mandatory for all the public sector, private sector and cooperative Banks and financial institutions to provide easy loans with nominal or without interest to the farmers affected by natural calamity.

(2) The Banks and financial institutions shall also not recover the earlier loan given to the affected farmer and the whole interest thereon shall be waived for atleast two years after the calamity and the farmer shall not be denied fresh loan on that ground.

Employment to dependent in case of death of a farmer affected by natural calamity.

10. Notwithstanding anything contained in any other law for the time being in force, the appropriate Government shall provide public employment to one of the dependent of a farmer who loses life as a consequence of natural calamity irrespective of the fact that such a farmer having committed suicide, according to the age, educational qualification and physical fitness of the dependent in case the farmer losing life was the sole bread winner of the family.

Moneylenders not to operate in areas affected by natural calamity.

11. It shall be the duty of the appropriate Government to ensure that moneylenders do not operate in any manner in the areas affected by natural calamity so as to prevent them exploiting the calamity affected farmers.

Provision for food, drinking water and fodder in calamity affected areas.

12. The appropriate Government shall make provision for food and drinking water for the farmers and their family members affected by natural calamity and fodder for their livestock to withstand the severity of the natural calamity.

Duty of the Government to provide seeds etc. for sowing crop to farmers.

13. It shall be the duty of the appropriate Government to provide quality seeds, manure, fertilizers, etc. to every farmer who lost his crop due to natural calamity in such manner as may be prescribed.

Cooperation of the State Governments.

14. The Government of the States shall extend their cooperation in implementing the provisions of this Act and it shall be the duty of the Central Government to place necessary funds at the disposal of the State Government for the purposes of this Act.

Savings.

15. The provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force.

Power to make rules.

16. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

Recently, the nation was shocked by the news pouring in almost on daily basis reporting farmers particularly in Andhra Pradesh affected by drought conditions committing suicides because they could not repay their loans and could not fulfill other obligations. This is indeed a blot on our democracy. However, ours is a very vast country and natural calamities also occur frequently in one part or the other. Drought has become a perpetual phenomena in many parts of the country particularly in Rajasthan, Gujarat, Chhattisgarh, Andhra Pradesh, Karnataka, Orissa, Madhya Pradesh, Maharashtra, Bihar, Jharkhand, Uttar Pradesh, etc. Assam is flooded every year. Coastal areas face cyclones almost every year. Half of Bihar is flooded and other half faces consistent drought conditions. Many parts face earthquake, hailstorm, cloudbursts, severe cold conditions, etc. But it is an unfortunate truth that farmers mostly bear the brunt of such natural calamities. The crops are damaged by all the natural calamities. With the damage of the crops the hopes and aspirations of the farmers too are lost. The farmers become penniless and cannot repay the loans and interest to the moneylenders, Banks, etc. which they could have repaid had there been a good crop. Many a times not only crops but the farmers also lose their homes, household items, livestock and become homeless. Unable to bear the pressures many hapless farmers take extreme step of committing suicide which they feel is the easy way to get rid of their problems but they leave behind their wailing families.

In a welfare state like ours it is the duty of the State to protect the life and liberty of its citizens which includes farmers also. The farmers, who grow food for the whole nation, should be saved at the time he is in distress facing the wrath of natural calamity by the State by providing adequate compensation to enable him to fight the odds. The Banks should apart from giving the affected farmers soft loans should also stop recovery of old loans and interest thereon should be waived. There are some other provisions in the Bill which may prevent the farmers from committing suicide and face the calamity bravely.

Hence this Bill.

PREMA CARIAPPA

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the establishment of National Farmers Natural Calamity Assistance Fund for the purposes of the Bill. Clause 5 of the Bill provides for the appointment of commissioners to decide compensation to affected farmers. Clause 8 provides for special package for children and aged during natural calamity. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Apart from the initial corpus of one thousand eight hundred crore rupees it is likely to involve one thousand crore rupees per annum as recurring expenditure.

Non-recurring expenditure to the tune of fifty crore rupees may also involve from the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 16 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XIV

BILL NO. CXIX OF 2005

A Bill to provide for the promotion of family planning measures by the State so as to control the booming population in the country to make it commensurate with the economic and social development of the nation and to maintain the ecological balance and for matters connected therewith and incidental thereto.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India as follows:—

Short title,
extent and
commencement.

1. (1) This Act may be called the Population Control Act, 2005.

(2) It extends to the whole of India.

(3) It shall come into force on such date, as the Central Government may, by notification in the Official Gazette, appoint.

2. In this Act, unless the context otherwise requires,—

Definitions.

(a) "appropriate Government" means in the case of a State, the Government of that State and in other cases the Central Government;

(b) "prescribed" means prescribed by rules made under this Act;

(c) "State" includes the Central and State Governments and all local or other authorities under the control of such Governments.

3. It is hereby declared that the provisions of this Act are for the purpose of giving effect to the policy of the State towards securing the principles of a welfare oriented State as laid down in article 38 of the Constitution of India.

Declaration as to policy of State.

4. Notwithstanding anything contained in any other law for the time being in force, no marriage shall be solemnised between a male who is less than twenty five years of age and a female who is less than twenty two years of age and any marriage solemnised in contravention of the provisions of this section shall be void.

Marriageable age.

5. (1) Notwithstanding anything contained in the Representation of the People Act, 1951 or in any other law for the time being in force, a citizen shall be disqualified for being chosen as a member of either House of Parliament or of the Legislature of a State or of the local self Government bodies, if that citizen has more than two living children.

Disqualification for being elected to Parliament, State Legislatures and local bodies, etc.

(2) The provisions of sub-section (1) shall not apply in case of a citizen having more than two living children on the date of commencement of this Act.

6. Notwithstanding anything contained in any other law for the time being in force any Central Government employee or an employee of a Public Sector Undertaking or body or Authority under the Central Government who has more than two living children shall not be eligible for any further increment in his salary or promotion in career:

Small family norm for Government employees.

Provided that the provision of this section shall not apply to an employee who has more than two living children on the date of commencement of this Act.

7. Every employee of the Central Government or of a Public Sector Undertaking, or body or Authority, who undergoes sterilization operation after the birth of his first child shall be given,—

Incentives for Government employees adopting small family norms.

(a) one year additional salary as incentive;

(b) plot or house site or built up house or flat at subsidized rates;

(c) loan for house building on nominal rate of interest;

(d) special Bond of Rupees One lakh in case the child is a girl child to be matured after twenty one years after the birth of the girl child;

(e) free educational facilities including technical education to the child upto Post-Graduate level;

(f) preference to the child in case of public employment;

(g) such other benefits and incentives as may be prescribed.

8. Any person having one living child and who undergoes sterilization operation shall be eligible to,—

Incentives for general public.

(a) get a house site or built up dwelling unit at subsidized rates;

(b) get rupees ten thousand as one time incentive;

(c) get free educational facilities and scholarship including technical education for his child upto Post-Graduate level;

(d) secure preference to his child in the matter of recruitment in service; and

(e) receive such other incentives as may be prescribed.

Denial of
maternity
facilities and
benefits of
Public
distribution
System in
certain cases.

9. Notwithstanding anything contained in any other law for the time being in force, any woman having two living children shall not be provided with maternity facilities in any Government Hospital, medical centre or Primary Health Centre for the birth of her third child and if such woman is a Government employee she shall not be entitled for maternity leave and other benefits of such kind:

Provided that if such woman agrees to undergo sterilization operation after the birth of her third child she shall be provided with maternity and other facilities required by her.

(2) Any person who, after the commencement of this Act, procreates third child shall be denied all the benefits under the Public distribution System and Public Health Care.

Penalty.

10. Whoever contravenes the provisions of section 4 of this Act shall be punished with imprisonment which shall not be less than six months but may extend to two years and also with fine, which may extend to fifty thousand rupees.

Act to have
overriding
effect.

11. The provisions of this Act and the rules made thereunder shall have effect notwithstanding anything inconsistent therewith contained in any other law for the time being in force, but save as aforesaid the provisions of this Act shall be in addition to and not in derogation of any other law for the time being in force applicable to matters dealt with in this Act.

Power to make
rules.

12. The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

STATEMENT OF OBJECTS AND REASONS

After China ours is the largest populated nation in the world. We have already crossed the one billion mark and there is no slow down in the boom of the population. Having only 2.4 per cent of global land area, we have more than 15 per cent of the world population making our nation one of the most densely populated nations of the globe. The booming population has adversely affected the whole planning process and has given rise to unparalleled transformation to human values, social institutions and economic structures. Means of livelihood such as employment are becoming scarce. So is the case with educational facilities, housing, medicare, etc. Agricultural land holdings are fast becoming uneconomical. The overcrowding is resulting in deterioration in law and order situation and is compelling at least half the population to live in slums and under squalid conditions. It is also affecting the ecological balance as the forests are decreasing and greenery is being replaced by concrete structures. The gap between the haves and have-nots is creating an explosive situation.

It is, therefore, necessary to check the booming population effectively by providing for incentives as well disincentives so as to tackle it at all levels.

Hence this Bill.

PREMA CARIAPPA

FINANCIAL MEMORANDUM

Clause 7 of the Bill provides for the incentive for Government employees adopting small family norm and clause 8 provides similar provisions for the general public. The Bill if enacted will involve expenditure from the Consolidated Fund of India. Though it is not possible to foresee exact expenditure it is estimated that a sum of rupees Two thousand crores is likely to be involved as recurring expenditure per annum.

A sum of rupees fifty crores may also involve as non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 12 of the Bill gives power to the Central Government to make rules for carrying out the purposes of the Bill. The rules will relate to matters of details only.

The delegation of legislative power is of normal character.

XV

BILL NO. CXX OF 2005

A Bill further to amend the Protection of Human Rights Act, 1993.

BE it enacted by Parliament in the Fifty-sixth Year of the Republic of India, as follows:—

Short title and
commencement.

1. (1) This Act may be called the Protection of Human Rights (Amendment) Act, 2005.

(2) It shall come into force at once.

Amendment
of section 12.

2. In section 12 of the Protection of Human Rights Act, 1993 (hereinafter referred to as the Principal Act), after sub-clause (ii), of clause (a), the following sub-clause shall be inserted, namely:—

Act No. 10 of
1994.

“(iii) a person or Non-Government Organization or an institute”.

3. In section 17 of the Principal Act, for clause (i), the following clause shall be substituted, namely:—

Amendment
of section 17.

“(i) call for information or report from the Central Government or any State Government or any other authority or organization subordinate thereto or from a person or Non-Government Organization or an institute for violation of such human rights as have arisen out of International Covenants and enforceable by courts of India, within such time as may be specified by it.”

4. In section 18 of the Principal Act:—

Amendment
of section 18.

(i) for clause (1), the following clause shall be substituted, namely:—

“(1) where the inquiry discloses, the commission of violation of human rights or negligence in the prevention of violation of human rights by a public servant, a person, Non-Government Organization or an institute, it shall recommend to the concerned Government or authority the initiation of proceedings for prosecution or such other action as the Commission may deem fit against the concerned person or persons:

Provided that the Commission shall specify such action or quantum of punishment as may be prescribed for violation of human rights, action for which can not be initiated in any other law in force.”

(ii) after clause (6), the following clause shall be inserted, namely:—

“(7) The Commission shall, on being satisfied that the action taken or proposed to be taken by the concerned Government or authority is not in proportion to the offence committed, forward the complaint to the Magistrate, who shall proceed to try the case in accordance with sections 200 and 201 of the Code of Criminal Procedure 1973.”

STATEMENT OF OBJECTS AND REASONS

The term "human right" has been defined in the Protection of Human Rights Act, 1993 as the rights relating to life, liberty equality and dignity of the individual guaranteed by the Constitution and embodied in the International Covenants and enforceable by courts in India. As such, human rights relating to the rights guaranteed by the Constitution, if violated by the state or any public authority, may be protected. Of late, many new rights have been recognized by International Covenants violation of which can not be actionable in any other law in force. In addition to this, a person, NGO or a private institute as per the Act can not be held liable for violation of human rights even if they may have violated human rights recognized by the International covenants in other words. The Act provides for action for violation of human rights by public authority and not against a private entity.

2. It has been observed that the powers of the National Human Rights Commission have been reduced to act merely as an agency to initiate an enquiry into cases of violation of human rights and to publish action taken report submitted to it by the Government. It has only recommendatory powers, whereas, taking into account the expertise, experience and specialization in handling cases of violation of human rights, the Commission should have been given powers to specify penal actions at least for cases which are not covered by any relevant statute.

3. In view of the above, the Bill proposes to amend the Protection of Human Rights Act, 1993.

4. Hence this Bill.

E. M. SUDARSANA NATCHIAPPAN

YOGENDRA NARAIN,
Secretary-General.